

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT

CATALINA CASTILLO, as Personal
Representative of the Estate
of Isidro Castillo, deceased,

Plaintiff,

v.

No. D-101-CV-2016-02241

HALLMARK INSURANCE COMPANY
fka Phoenix Indemnity Insurance Company,

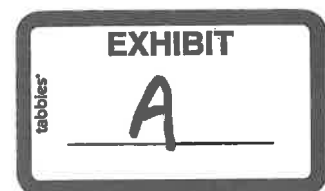
Case assigned to Ortiz, Raymond Z.

Defendant.

COMPLAINT FOR DAMAGES

Plaintiff, for her Complaint, states:

1. Plaintiff is a citizen and resident of New Mexico.
2. Defendant Hallmark Insurance Company, formerly known as Phoenix Indemnity Insurance Company ("Hallmark"), is a foreign insurance company duly authorized to conduct business in New Mexico. Hallmark issued the insurance policy described herein in New Mexico. By virtue of it being subject to service of process through the New Mexico Superintendent of Insurance, located in Santa Fe County, venue is proper in this district.
3. Plaintiff does not seek to recover any amounts in excess of \$75,000.00.
4. This Court has jurisdiction over the parties and subject matter herein, and venue is proper in this district.
5. On April 25, 2008, Isidro Castillo (hereinafter "the Decedent") was shot and killed by an assailant who used a motor vehicle as active accessory in committing the crime. The assailant was an "uninsured motorist" as that term is defined by New Mexico law.



6. At all times material hereto, Hallmark provided a policy of automobile insurance which covered the Decedent as an insured and which provided the Decedent with uninsured motorist (“UM”) insurance coverage.

7. Plaintiff is entitled to payment of UM insurance benefits pursuant to the Hallmark insurance policy.

8. Plaintiff is entitled to UM benefits under the Phoenix Indemnity Insurance Company policy for bodily injury and punitive damages because the Decedent is an insured under the policy and the Decedent’s death was caused by an uninsured motorist.

WHEREFORE, Plaintiff prays for judgment against Defendant awarding the following relief:

- A. Compensatory damages in an amount to be determined at trial;
- B. Pre-judgment interest at the highest statutory rate;
- C. Post-judgment interest at the highest statutory rate;
- D. Plaintiff’s attorneys’ fees and costs incurred herein; and
- E. Such other or further relief as the court deems just and proper.

ELIAS LAW P.C.

By: /s/ Michael C. Ross
MICHAEL C. ROSS
111 Isleta Blvd. SW, Suite A
Albuquerque, NM 87105
(505) 221-6000
Attorneys for Plaintiff

D-101-CV-201602241 - Friday, December 9, 2016

Catalina Castillo
v.
Hallmark Insurance Company

CASE DETAIL

CASE #	CURRENT JUDGE	FILING DATE	COURT
D-101-CV-201602241	Ortiz, Raymond Z.	09/23/2016	SANTA FE District

PARTIES TO THIS CASE

PARTY TYPE	PARTY DESCRIPTION	PARTY #	PARTY NAME
D	Defendant	1	HALLMARK INSURANCE COMPANY
DC	Decedent	1	CASTILLO ISIDRO
	ATTORNEY: ROSS MICHAEL C.		
P	Plaintiff	1	CASTILLO CATALINA
	ATTORNEY: ROSS MICHAEL C.		

CIVIL COMPLAINT DETAIL

COMPLAINT DATE	COMPLAINT SEQ #	COMPLAINT DESCRIPTION	DISP	DISP DATE
09/23/2016	1	OPN: COMPLAINT		

COA SEQ #	COA DESCRIPTION
1	Tort: Personal Injury Non Auto

PARTY NAME	PARTY TYPE	PARTY #
------------	------------	---------

REGISTER OF ACTIONS ACTIVITY

EVENT DATE	EVENT DESCRIPTION	EVENT RESULT	PARTY TYPE	PARTY #	AMOUNT
10/13/2016	SUMMONS ISSUED				
	Issuance of Summons on D-Hallmark				
09/23/2016	OPN: COMPLAINT				
	Complaint for Damages				

JUDGE ASSIGNMENT HISTORY

ASSIGNMENT DATE	JUDGE NAME	SEQ #	ASSIGNMENT EVENT DESCRIPTION
09/23/2016	Ortiz, Raymond Z.	1	INITIAL ASSIGNMENT



10/13/2016 2:56:27 PM

STEPHEN T. PACHECO

Jessica Garcia

CIVIL SUMMONS	
STATE OF NEW MEXICO COUNTY OF SANTA FE FIRST JUDICIAL DISTRICT COURT Court Address: PO Box 2268/225 Montezuma Ave. Santa Fe, New Mexico New Mexico 87501 Court Telephone No: (505) 455-8250	Case Number: D-101-CV-2016-02241 Assigned Judge: Raymond Z. Ortiz
Plaintiff(s): CATALINA CASTILLO, as Personal Representative of the Estate of Isidro Castillo, deceased. v. Defendant(s): HALLMARK INSURANCE COMPANY, fka Phoenix Indemnity Insurance Company	Defendant: Hallmark Insurance Company c/o Office of Superintendent of Insurance Attn: Service of Process P.O. Box 1689 Santa Fe, NM 87504-1689

TO THE ABOVE NAMED DEFENDANT(S): Take notice that:

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The court issued this Summons.
2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considering served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
5. You are entitled to a jury trial on most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; 1-505-797-6066

Dated at: Santa Fe, New Mexico this 13th day of October, 2016

Stephen T. Pacheco
Clerk of the District CourtBy: 
Deputy

/s/Michael C. Ross
 Michael C. Ross
 David Elias Idinopulos
 ELIAS LAW P.C.
 111 Isleta Boulevard SW, Suite A
 Albuquerque, New Mexico 87105
 P: (505) 221-6000

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.



Official title

216604
216604

RECEIVED
NOV 18 2016

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE

Mailing Address: P.O. Box 1689, Santa Fe, NM 87504-1689

Physical Address: 1120 Paseo de Peralta, Room 428, Santa Fe, NM 87501

Main Phone: (505) 827-4601; Main Fax (505) 827-4734; Toll Free: 1-855-4-ASK-OSI

www.osi.state.nm.us

**SUPERINTENDENT OF
INSURANCE**

John G. Franchini – (505) 827-4299

DEPUTY SUPERINTENDENT

Robert Doucette – (505) 827-4439



Service of Process

Room 432

(505) 827-4241

November 9, 2016

Hallmark Insurance Company
Martha Bell
777 Main St., Ste. 1000
Fort Worth, TX 76102

Re: Catalina Castillo, as Personal Representative of the Estate of Isidro Castillo, deceased Vs
Hallmark Insurance Company, fka Phoenix Indemnity Insurance Company,
D101CV2016-02241

Dear Mr. President:

In accordance with the provisions of NMSA 1978, Sections 59A-5-31 & 59A-32, enclosed is a copy of a Civil Summons, to Defendant Hallmark Insurance Company on the above styled cause, Service has been accepted on your behalf as of November 9, 2016.

Respectfully,

John G. Franchini, Superintendent

Enclosure

CERTIFIED MAIL 7012 3460 0003 1668 5079

CIVIL SUMMONS	
STATE OF NEW MEXICO COUNTY OF SANTA FE FIRST JUDICIAL DISTRICT COURT Court Address: PO Box 2268/225 Montezuma Ave. Santa Fe, New Mexico New Mexico 87501 Court Telephone No: (505) 455-8250	Case Number: D-101-CV-2016-02241 Assigned Judge: Raymond Z. Ortiz
Plaintiff(s): CATALINA CASTILLO, as Personal Representative of the Estate of Isidro Castillo, deceased. v. Defendant(s): HALLMARK INSURANCE COMPANY, fka Phoenix Indemnity Insurance Company	Defendant: Hallmark Insurance Company c/o Office of Superintendent of Insurance Attn: Service of Process P.O. Box 1689 Santa Fe, NM 87504-1689

TO THE ABOVE NAMED DEFENDANT(S): Take notice that:

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The court issued this Summons.
2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considering served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
5. You are entitled to a jury trial on most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; 1-505-797-6066

Dated at: Santa Fe, New Mexico this 13th day of October, 2016

Stephen T. Pacheco
Clerk of the District CourtBy: *[Signature]*
Deputy/s/Michael C. Ross
Michael C. Ross
David Elias Idinopulos
ELIAS LAW P.C.
111 Isleta Boulevard SW, Suite A
Albuquerque, New Mexico 87105
P: (505) 221-6000

RECEIVED

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS

NOV 9 2016

Office of Superintendent
of Insurance

RETURN

STATE OF NEW MEXICO)
) ss.
 COUNTY OF _____)

I, _____ being duly sworn on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in _____ County on the ____ day of _____, 2016 by delivering a copy of this summons, with a copy of complaint in the following manner:

(check one box and fill in appropriate blanks)

- ☐ to defendant _____ (used when defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint)
- ☐ to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA (used when service is by mail or commercial courier service).

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of the complaint attached, in the following manner:

- ☐ to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, (used when the defendant is not presently at place of abode) and by mailing by first class mail to the defendant at _____ (insert defendant's last known mailing address) a copy of summons and complaint.
- ☐ to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ (insert defendant's business address) and by mailing the summons and complaint by first class mail to the defendant at _____ (insert defendant's last known mailing address)
- ☐ to _____, an agent authorized to receive service of process for defendant _____.
- ☐ to _____, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of defendant _____, (used when defendant is a minor or an incompetent person).
- ☐ to _____, (name of person), _____, (title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision).

Fees: _____

 Signature of person making service

 Title (if any)

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2016.

 Judge, notary or other officer authorized to administer oaths

 Official title

FILED IN MY OFFICE
DISTRICT COURT CLERK
9/23/2016 3:30:41 PM
STEPHEN T. PACHECO
Ginger Sloan

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT

CATALINA CASTILLO, as Personal
Representative of the Estate
of Isidro Castillo, deceased,

Plaintiff,

v.

No. D-101-CV-2016-02241

Case assigned to Ortiz, Raymond Z.

HALLMARK INSURANCE COMPANY
fka Phoenix Indemnity Insurance Company,

Defendant.

COMPLAINT FOR DAMAGES

Plaintiff, for her Complaint, states:

1. Plaintiff is a citizen and resident of New Mexico.
2. Defendant Hallmark Insurance Company, formerly known as Phoenix Indemnity Insurance Company ("Hallmark"), is a foreign insurance company duly authorized to conduct business in New Mexico. Hallmark issued the insurance policy described herein in New Mexico. By virtue of it being subject to service of process through the New Mexico Superintendent of Insurance, located in Santa Fe County, venue is proper in this district.
3. Plaintiff does not seek to recover any amounts in excess of \$75,000.00.
4. This Court has jurisdiction over the parties and subject matter herein, and venue is proper in this district.
5. On April 25, 2008, Isidro Castillo (hereinafter "the Decedent") was shot and killed by an assailant who used a motor vehicle as active accessory in committing the crime. The assailant was an "uninsured motorist" as that term is defined by New Mexico law.

6. At all times material hereto, Hallmark provided a policy of automobile insurance which covered the Decedent as an insured and which provided the Decedent with uninsured motorist ("UM") insurance coverage.

7. Plaintiff is entitled to payment of UM insurance benefits pursuant to the Hallmark insurance policy.

8. Plaintiff is entitled to UM benefits under the Phoenix Indemnity Insurance Company policy for bodily injury and punitive damages because the Decedent is an insured under the policy and the Decedent's death was caused by an uninsured motorist.

WHEREFORE, Plaintiff prays for judgment against Defendant awarding the following relief:

- A. Compensatory damages in an amount to be determined at trial;
- B. Pre-judgment interest at the highest statutory rate;
- C. Post-judgment interest at the highest statutory rate;
- D. Plaintiff's attorneys' fees and costs incurred herein; and
- E. Such other or further relief as the court deems just and proper.

ELIAS LAW P.C.

By: /s/ Michael C. Ross
MICHAEL C. ROSS
111 Isleta Blvd. SW, Suite A
Albuquerque, NM 87105
(505) 221-6000
Attorneys for Plaintiff

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT

CATALINA CASTILLO, as Personal
Representative of the Estate
of Isidro Castillo, deceased,

Plaintiff,

v.

Cause No. D-101-CV-2016-02241

HALLMARK INSURANCE COMPANY,
fka Phoenix Indemnity Insurance Company,

Defendant

NOTICE OF FILING NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant Hallmark Insurance Company, Defendant in the above-styled matter, has filed a Notice of Removal in the United States District Court for the District of New Mexico. A true and correct copy of the Notice of Removal, attached to this Notice as "Exhibit A", was emailed to:

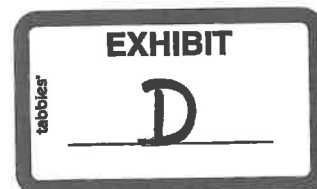
mike@abogadoelias.com
Michael C. Ross, Esq.
Elias Law, P.C.
111 Isleta Boulevard SW, Suite A
Albuquerque, NM 87105

Electronically submitted,

ALLEN, SHEPHERD, LEWIS & SYRA, P.A.

By: 

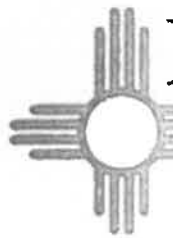
Daniel W. Lewis
Cory M. McDowell
P.O. Box 94750
Albuquerque, NM 87199-4750
(505) 341-0110
dlewis@allenlawnm.com
Attorneys for Defendant



THIS IS TO CERTIFY that on this 9 day of December 2016, a copy of the foregoing pleading was filed Electronically through the Odyssey File & Serve System, which caused the following parties or counsel to be served by electronic means:

Michael C. Ross, Esq.
Elias Law, P.C.
111 Isleta Boulevard SW, Suite A
Albuquerque, NM 87105
Email: mike@abogadoelias.com
Attorneys for Plaintiff


Cory M. McDowell



ELIAS LAW, P.C.

"At Bridge & Isleta, in the Heart of the South Valley"

P110/666
JUN 06 2014

June 4, 2014

Bruce McDonald
211 12th Street NW
Albuquerque, New Mexico 87102

Re. The Estate of Isidro Castillo
Claim No. P0216604
Policy Holder: Isidro Castillo-Calzadillas
Policy No. 31-202385-38
2d Judicial District Case No. D-202-CV-2014-00821

Dear Bruce:

At this point, you've taken the EUOs of Mr. and Mrs. Castillo which revealed nothing that would change the facts of this case, nor how they apply to UM/UIM. You've also got a police report which shows that Isidro Castillo resided with his parents. That report also establishes that the shooter was specifically called to bring a gun to the murder scene, that he used his car to do so, that upon arriving he shot Isidro Castillo to death, and that he then used his car to leave the scene. Accordingly, all elements of Britt and Barncastle et al. are satisfied. Finally, at the EUO, you provided me a declarations page which showed that the Castillos had three vehicles on their policy, each with BI limits of \$25,000. That declarations page does not show what the premium would be for UM/UIM coverage, is not signed by the insured, and accordingly does not appear to comply in any substantive way with Jordan v. Allstate.

Based on the facts that are known at this time, I am demanding your carrier commit in writing to tendering its limits. If your carrier cannot do so at this time, I am also demanding that you advise me specifically and in writing the basis for a denial of this claim or, alternatively, tell me specifically what more your carrier requires to evaluate this claim.

Sincerely,

David Elias Idinopulos
DEI/ai

